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Committee on the Environment, Public Health and Food Safety

2006/0802(CNS)

11.10.2006

OPINION

of the Committee on the Environment, Public Health and Food Safety

for the Committee on Industry, Research and Energy

on the draft Council Regulation establishing an Instrument for Nuclear Safety
and Security Assistance
(9037/2006 – C6-0153/2006 – 2006/0802(CNS))

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AMENDMENTS

The Committee on the Environment, Public Health and Food Safety calls on the Committee on Industry, Research and Energy, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Council ¹	Amendments by Parliament
Amendment 1	
Title	
Proposal for a COUNCIL REGULATION establishing an Instrument for Nuclear Safety <i>and Security Assistance</i>	Proposal for a COUNCIL REGULATION establishing an Instrument for Nuclear Safety <i>Cooperation</i>

Justification

The reference to security seems inappropriate since this instrument has little operative articles related to the security aspect of the cooperation with third countries.

Amendment 2 Citation -1 (new)

Having regard to the Treaty establishing the European Community, and in particular Article 308 thereof,

Justification

The proposed Council regulation shall replace important Council Decisions that make reference to the EC Treaty such as Council Decision 1998/381 (EC, Euratom) of 5 June 1998 concerning a contribution of the European Community to the European Bank for Reconstruction and Development for the Chernobyl Shelter Fund, and Council Decision 2001/824 (EC, Euratom) of 16 November 2001 on a further contribution of the European Community to the European Bank for Reconstruction and Development for the Chernobyl Shelter Fund. Similarly, the currently discussed Council decision proposal to allocate funds to the Chernobyl Shelter Fund in 2007 (2006/0102 CNS) is also based on both the ECT and Euratom.

¹ Not yet published in OJ.

There is therefore no reason to limit the legal basis of this new instrument to only the Euratom Treaty since it covers the safety aspect of nuclear installations in third country, including funding for Chernobyl. Limiting the European Parliament's power by imposing a sole reference to Euratom is therefore unacceptable. Article 308 of the ECT is compatible with Article 203 of the Euratom Treaty and must be applied to this Regulation.

Amendment 3
Recital 2

(2) The Chernobyl **accident** in 1986 highlighted the global **importance of nuclear safety**. In order to **fulfil the objective of the Treaty to create the conditions of safety necessary to eliminate hazards** to the life and health of the public, the European Atomic Energy Community (hereinafter the Community) should be able to support nuclear **safety** in third countries.

(2) The Chernobyl **nuclear disaster** in 1986, **which was the worst ever in terms of the number of its victims and the tragic health consequences for both those exposed at the time of the accident and the generations to come**, highlighted the **dramatic global economic, environmental, social and health consequences of such a disaster**. In order to **reduce the risks** to the life and health of the public, **Member States and** the European Atomic Energy Community (hereinafter the Community) should be able to support **the safe closure of existing dangerous and particularly polluting nuclear facilities** in third countries.

Justification

It is important to stress the tragic and unique nature of the Chernobyl disaster of 1986, which can in no way be described as a normal accident. and which should lead towards financing measures to accelerate the remediation of former sites and closure of high risk and particularly polluting nuclear facilities.

Amendment 4
Recital 4

(4) The Community already pursues a close cooperation, in accordance with Chapter X of the Treaty, with the International Atomic Energy Agency, both in relation to nuclear safeguards (in furtherance of the objectives of Chapter VII of Part Two of the Treaty), and in relation to nuclear safety.

(4) The Community already pursues a close cooperation, in accordance with Chapter X of the Treaty, with the International Atomic Energy Agency, both in relation to nuclear safeguards (in furtherance of the objectives of Chapter VII of Part Two of the Treaty), and in relation to nuclear safety. **In this context, the Community is actively supporting the drafting of a code of conduct for an international nuclear incident warning system under the aegis of**

Amendment 5

Recital 5

(5) There is a particular need for the Community to continue its efforts in support of the ***promotion*** of nuclear safety and the application of effective safeguards of nuclear materials in third countries, drawing on the experience of mutual consultation between the Commission and its contractors ***and building on the experience already gained*** under the Tacis and Phare programmes ***including through the work of the relevant expert groups, notably in the area of civil nuclear liability***, and its own safeguards activities within the European Union.

(5) There is a particular need for the Community to continue its efforts in support of the ***implementation of the highest level*** of nuclear safety and the application of effective safeguards of nuclear materials in third countries, drawing on the experience of mutual consultation between the Commission and its contractors, ***taking into account independent audits, in particular by the European Court of Auditors, of past experience*** under the Tacis and Phare programmes, and its own safeguards activities within the European Union.

Justification

Community public money must be spent in an efficient and effective way. The measures that are applied under this new instrument must have a real impact on nuclear safety and security. They must therefore be built on past experiences and independent assessments. In this sense the 1998 and more recent 2006 European Court of Auditors, which both came to severe conclusions as regards nuclear safety assistance respectively in the East and Russia must be taken into account.

Amendment 6

Recital 8

(8) The Council of the European Union in its Resolution of 18 June 1992 on the technological problems of nuclear safety “emphasizes the particular importance it attaches to nuclear safety in Europe, and therefore requests the Member States and the Commission to adopt as the fundamental and priority objective of Community cooperation in the nuclear field, in particular with the other European countries, especially those of Central and Eastern Europe and the Republics of the former Soviet Union that of bringing their nuclear installations up to safety levels equivalent to those in practice in the Community and to facilitate the implementation of the safety criteria and

(8) The Council of the European Union in its Resolution of 18 June 1992 on the technological problems of nuclear safety “emphasizes the particular importance it attaches to nuclear safety in Europe, and therefore requests the Member States and the Commission to adopt as the fundamental and priority objective of Community cooperation in the nuclear field, in particular with the other European countries, especially those of Central and Eastern Europe and the Republics of the former Soviet Union that of bringing their nuclear installations up to safety levels equivalent to those in practice in the Community and to facilitate the implementation of the safety criteria and

requirements already recognized throughout the Community”, financial assistance will be provided taking these objectives into account, ***including when supporting existing plants not yet in operation.***

requirements already recognized throughout the Community”; financial assistance will be provided taking these objectives into account.

Justification

Financial assistance should not be given to nuclear facilities not yet in operation.

Amendment 7
Recital 8 a (new)

(8a) The Council further recalls on 24 September 1998 that "its evaluation of the Commission opinions on the accession applications of the Central and Eastern European States reveals that considerable efforts will be required by these States to enable them to meet the environmental "Acquis" and implement it effectively, including through the establishment of the necessary administrative capacity. It also recalls the need to enhance nuclear safety in the candidate States so that it reaches a level corresponding to the technological, regulatory and operational state-of-the-art in the Union. The Council also recalls the need for the candidate States to respect all existing commitments in this area".

Justification

Third countries should achieved the same level of nuclear safety as requested to past and current candidate countries to the European Union.

Amendment 8
Recital 8 b (new)

(8b) Taking into account that the risk 'zero' does not exist in the nuclear field, Community assistance will be limited to facilities that are -or were- in operation at

the date of entry into force of this Regulation.

Justification

Financial assistance should not be given to nuclear facilities not yet in operation.

Amendment 9

Recital 9

(9) It is understood that, when giving assistance to the nuclear installation concerned, it is with the aim that maximum impact could be obtained by the assistance, without, however, deviating from the principle that the ***responsibility*** for the safety of the installation should rest with the operator and the State having the jurisdiction over the installation.

(9) It is understood that, when giving assistance to the nuclear installation concerned, it is with the aim that maximum impact could be obtained by the assistance, without, however, deviating from the ***"polluter pays"*** principle, ***and*** that the ***liability*** for the safety of the installation, ***its decommissioning and the waste it has generated*** should rest with the operator and the State having the jurisdiction over the installation.

Justification

Community assistance to third countries does not relieve them and operators of their safety and environmental responsibility during the whole period the facility operates and afterwards, i.e. closure, decommissioning and remediation of the site.

Amendment 10

Recital 13

(13) This Regulation, providing for financial assistance in support of the objectives of the Treaty, is without prejudice to the respective competences of the Community and Member States in the fields concerned, in particular in nuclear safeguards.

(13) This Regulation, providing for financial assistance in support of the objectives of the Treaty, is without prejudice to the ***exclusive powers of the Member States to make their own energy choices and the*** respective competences of the Community and Member States in the fields concerned, in particular in nuclear safeguards.

Justification

We must draw attention to the sovereignty of the Member States in making energy choices, even though nuclear safety is a shared responsibility and we can congratulate ourselves on the development of a common approach on the part of the national nuclear safety authorities.

Amendment 11

Recital 14

(14) *The Treaty does not provide, for the adoption of this Regulation, powers other than those of Article 203,*

(14) *This Regulation is based on Article 308 of the EC Treaty and Article 203 of the Euratom Treaty,*

Justification

See justification on the amendment on the legal basis.

Amendment 12

Article 1

The Community ***shall*** finance measures ***to support the promotion of a high level of nuclear safety***, radiation protection and the application of efficient and effective safeguards of nuclear material in third countries in line with the provisions of this Regulation.

The Community ***may*** finance ***the efficient implementation of measures where these would result in a safety level corresponding to the technological, regulatory and operational state-of-the-art in the Union, taking into consideration the latest scientific and technological development***, radiation protection and the application of efficient and effective safeguards of nuclear material in third countries in line with the provisions of this Regulation, ***without prejudice to the "polluter-pays" principle.*** ***These measures shall not include any action intended to promote the construction of new nuclear power stations.***

Justification

Community assistance should lead to the highest safety level. Furthermore, this assistance does not relieve third countries and operators of their environmental responsibility. Finally, it should be prohibited to use Community funds for the construction of new nuclear power stations.

Amendment 13

Article 1, paragraph 1 a (new)

This Regulation covers only nuclear facilities that are or were in operation in third countries at the date of entry into force of this Regulation.

Justification

The use of Community resources should only be spent on in operation or closed nuclear facilities. They shall not be used to increase the lifespan or the building of nuclear facilities.

Amendment 14

Article 2, point (a), introductory sentence

a) the ***promotion*** of an effective nuclear safety ***culture*** at all levels, in particular through:

a) the ***establishment*** of effective nuclear safety ***measures*** at all levels, in particular through:

Justification

Community resources should be spent on implementing real safety measures.

Amendment 15

Article 2, point (a), indent 2

- on-site and external assistance programmes,

- on-site and external assistance programmes ***to improve the operating safety and maintenance of existing nuclear facilities,***

Justification

Community assistance should lead to the highest safety level. Furthermore, this assistance does not relieve third countries and operators of their environmental responsibility.

Amendment 16

Article 2, point (a), indent 3

- improving the safety aspects of the design, operation and maintenance of existing nuclear power plants ***or other existing nuclear installations so that high safety levels can be achieved,***

- improving the safety aspects of the design, operation and maintenance of existing nuclear power plants ***which are in operation,***

Justification

It should be prohibited to use Community funds for the construction of new nuclear power stations.

Amendment 17

Article 2, paragraph 1, point (a), indent 4

- support to the safe transport, treatment and disposal of nuclear fuel and radioactive waste,

- support to the safe transport, treatment and disposal of nuclear fuel and radioactive waste; ***certain methods of disposal of radioactive waste, such as dumping at sea, disposal in under-sea repositories and disposal in space, shall be excluded for environmental reasons,***

Justification

Based on Amendment 22 adopted by the European Parliament on 13 January 2004 to the proposal for a Council Directive (Euratom) on the management of spent nuclear fuel and radioactive waste (P5_TA(2004)0011).

Amendment 18

Article 2, paragraph 1, point (a), indent 5

- and the development and implementation of strategies for decommissioning existing installations and the remediation of former nuclear sites;

- and the development and implementation of strategies for decommissioning existing installations and the remediation of former nuclear sites ***which can attain a high level of safety at a reasonable cost and within a reasonable time frame;***

Justification

It is important to mention the various options available to the European Union in assisting third countries under the PHARE and TACIS programmes: this aid can be used either to modernise existing nuclear reactors or to implement commitments to close installations for which a high level of safety cannot be guaranteed.

Amendment 19

Article 2, point (b)

(b) the ***promotion*** of effective ***regulatory frameworks, procedures and systems*** to ensure ***adequate*** protection against ionising radiations from radioactive materials, in particular from high activity radioactive sources, ***and their safe disposal;***

(b) the ***establishment*** of effective ***measures*** to ensure ***the highest*** protection against ionising radiations from radioactive materials, in particular from high activity radioactive sources;

Justification

Community resources should be spent on implementing real safety measures.

Amendment 20

Article 5, paragraph 2

2. These action programmes shall specify the objectives pursued, the fields of intervention, the measures envisaged, the expected results, the management procedures and total amount of financing planned. They shall contain a summary description of the operations to be financed, an indication of the amounts allocated for each operation and an indicative implementation timetable. Where **relevant**, they **may** include the results of any lessons learned from previous assistance.

2. These action programmes shall specify the objectives pursued, the fields of intervention, the measures envisaged, the expected results, the management procedures and total amount of financing planned. They shall contain a summary description of the operations to be financed, an indication of the amounts allocated for each operation and an indicative implementation timetable. Where **applicable**, they **shall** include the results of any lessons learned from previous assistance **experience in the same facility and/or in the same area.**

Justification

In order to increase overall program efficiency, each action program, where applicable, should explicitly make reference to previous assistance experience in the same facility and/or in the same area.

Amendment 21 Article 6, paragraph 3

3. Where the cost of such measures exceeds **EUR 10 million**, the Commission shall adopt them in accordance with the procedure referred to in Article 20(3), following, where appropriate, consultation with the partner country, or partner countries in the region, concerned.

3. Where the cost of such measures exceeds **EUR one million**, the Commission shall adopt them in accordance with the procedure referred to in Article 20(3), following, where appropriate, consultation with the partner country, or partner countries in the region, concerned.

Justification

The limit for the adoption of the consultative procedure in the case of Special Measures should be set at € 1 million. In addition, there should be a limitation of the number of potential Special Measures per given time period. The Parliament should be allowed to make its own suggestions for Special Measures and the refusal of such proposals have to be justified by the Commission and/or the Committee.

Amendment 22 Article 6, paragraph 4

4. Where the cost of such measures is **EUR 10 million** or less, the Commission shall

4. Where the cost of such measures is **EUR one million** or less, the Commission shall

inform in writing the Council and the Committee set up in accordance with Article 20 within one month of adopting such measures.

inform in writing ***the European Parliament***, the Council and the Committee set up in accordance with Article 20 within one month of adopting such measures.

Justification

Same justification as the amendment to article 6, paragraph 3 by the same authors.

Amendment 23
Article 8, paragraph 1, indent 6

- debt-relief programmes; ***deleted***

Justification

Under this Regulation, Community resources should not be allocated to debt-relief programmes. Generally speaking, the selection and definition of measures should be based on least cost assessments (e.g. as practiced by the EBRD).

Amendment 24
Article 8, paragraph 1, indent 8

- grants to cover operating costs; ***deleted***

Justification

Under this Regulation, Community resources should not be allocated to grants. Generally speaking, the selection and definition of measures should be based on least cost assessments (e.g. as practiced by the EBRD).

Amendment 25
Article 9, paragraph 2

2. ***None*** of the support measures ***are*** necessarily covered by multi-annual programming ***and may therefore be financed outside the scope of strategy papers and*** multi-annual indicative programmes. ***However, they may also be financed under multi-annual indicative programmes. The Commission shall adopt support measures not covered by multi-annual indicative programmes*** in accordance with Article 6.

2. ***Each*** of the support measures ***shall*** necessarily ***be*** covered by multi-annual programming ***or the*** multi-annual indicative programmes, in accordance with Article 6.

Justification

The Community resources must be only allocated to safety measures covered by the multi-annual programming and indicative programmes, taking into account some exceptions as laid down in Article 6.

Amendment 26 Article 18

The Commission shall regularly evaluate the results of policies and programmes and the effectiveness of programming in order to ascertain whether the objectives have been met and enable it to formulate recommendations with a view to improving future operations. The Commission shall send significant evaluation reports to the Committee established in accordance with Article 20.

The Commission, ***with the help of independent experts***, shall regularly evaluate, ***on an individual project basis***, the results of policies and programmes and the effectiveness of programming in order to ascertain whether the objectives have been met and enable it to formulate recommendations with a view to improving future operations. The Commission shall send significant evaluation reports to the ***European Parliament, the Council and the*** Committee established in accordance with Article 20.

Justification

Considering the obvious lack of evaluation of past nuclear assistance programs, the evaluation should be done with the help of independent experts. Monitoring and evaluation has to be an ongoing process and should be carried out on an individual project basis (and not only sector or country wide as mainly carried out by the Commission). The European Parliament and the Council should receive the evaluation reports.

Amendment 27 Article 19

The Commission shall examine progress achieved in implementing the measures undertaken pursuant to this Regulation and shall submit to the European Parliament and the Council an annual report on the implementation of the assistance. The report shall also be addressed to the Economic and Social Committee and the Committee of Regions. The report shall contain information relating to the previous year on the measures financed, information on the results of monitoring and evaluation exercises and the implementation of budget commitments and payments, broken down by country, region ***and*** cooperation sector.

The Commission shall examine progress achieved in implementing the measures undertaken pursuant to this Regulation and shall submit to the European Parliament and the Council an annual report on the implementation of the assistance. The report shall also be addressed to the Economic and Social Committee and the Committee of Regions. The report shall contain ***the evaluation reports as referred in Article 18 and*** information relating to the previous year on the measures financed, information on the results of monitoring and evaluation exercises and the implementation of budget commitments and payments, broken down

by country, region, cooperation sector **and project specific**.

Justification

Evaluation reports should also be sent to the European Parliament and the Council. Furthermore, the reports should give information on each individual project, which is supported by the Community under this Regulation.

Amendment 28
Article 20, paragraph 1

1. The Commission shall be assisted by a Committee composed of the representatives of the Member States and chaired by the representative of the Commission.

1. The Commission shall be assisted by a Committee composed of the representatives of the Member States **and the European Parliament** and chaired by the representative of the Commission.

Justification

The European Parliament should be represented in the committee.

Amendment 29
Article 21

Not later than **31 December 2010**, the Commission shall submit to the European Parliament and the Council a report evaluating the implementation of the regulation in the first **three** years together, if appropriate, with a legislative proposal introducing the necessary modifications to the instrument.

Not later than **1 July 2009**, the Commission shall submit to the European Parliament and the Council a report evaluating the implementation of the regulation in the first **two** years, **and thereafter every two years**, together, if appropriate, with a legislative proposal introducing the necessary modifications to the instrument.

Justification

Considering the large amounts of money involved and the mediocre past record of nuclear assistance programs in the East, more frequent reporting is indispensable. Comprehensive review reports that cover the cumulative periods from 1 January 2007 onwards should be submitted bi-annually starting 1 July 2009.

PROCEDURE

Title	Draft Council regulation establishing an Instrument for Nuclear Safety and Security Assistance
References	9037/2006 – C6-0153/2006 – 2006/0802(CNS)
Committee responsible	ITRE
Opinion by Date announced in plenary	ENVI 18.5.2006
Enhanced cooperation – date announced in plenary	
Drafts(wo)man Date appointed	Frédérique Ries 14.6.2006
Previous drafts(wo)man	
Discussed in committee	
Date adopted	10.10.2006
Result of final vote	+ : 33 – : 4 0 : 10
Members present for the final vote	Georgs Andrejevs, Irena Belohorská, Johannes Blokland, John Bowis, Frieda Brepoels, Dorette Corbey, Avril Doyle, Mojca Drčar Murko, Jill Evans, Anne Ferreira, Karl-Heinz Florenz, Matthias Groote, Satu Hassi, Gyula Hegyi, Jens Holm, Mary Honeyball, Caroline Jackson, Dan Jørgensen, Christa Klaß, Eija-Riitta Korhola, Urszula Krupa, Marie-Noëlle Lienemann, Peter Liese, Jules Maaten, Linda McAvan, Riitta Myller, Péter Olajos, Miroslav Ouzký, Frédérique Ries, Guido Sacconi, Karin Scheele, Horst Schnellhardt, Richard Seeber, Bogusław Sonik, Antonios Trakatellis, Evangelia Tzampazi, Thomas Ulmer, Marcello Vernola, Anja Weisgerber, Åsa Westlund, Anders Wijkman
Substitute(s) present for the final vote	María del Pilar Ayuso González, Bairbre de Brún, Hélène Goudin, Kartika Tamara Liotard, Caroline Lucas, Bart Staes
Substitute(s) under Rule 178(2) present for the final vote	Fausto Correia
Comments (available in one language only)	...